

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

CHARLETON HIGHTOWER,

Defendant.

PROTECTIVE ORDER

20 Cr. 303 (RMB)

RICHARD M. BERMAN, District Judge:

WHEREAS, CHARLETON HIGHTOWER, the defendant, has made a request for certain records and papers used in connection with the constitution of the Master and Qualified Jury Wheels in the United States District Court for the Southern District of New York (the “Jury Records”), pursuant to the Fifth and Sixth Amendments to the United States Constitution and the Jury Selection and Service Act, 28 U.S.C. §§ 1867(a) and (f);

WHEREAS, the Jury Administrator of the Southern District of New York (the “Jury Administrator”) has indicated that certain Jury Records reveal personal identifying information that would be burdensome to redact (“Sensitive Information”);

WHEREAS, in the interest of expediting the process by which the defendant receives the Jury Records pursuant to the Court’s order dated September 3, 2020 (*see* Dkt. No. 23), the defendant, by his attorney, Ariel Werner, Esq. (“Defense Counsel”), consents to the entry of this Order;

WHEREAS, pursuant to 28 U.S.C. § 1867(f) and subject to the additional limitations set forth below, the Jury Records provided to the parties shall not be disclosed to third

parties except “as may be necessary in the preparation or presentation of a motion” under 28 U.S.C. § 1867(a), (b), or (c);

IT IS ORDERED that, pursuant to 28 U.S.C. § 1867(f) and consistent with the additional limitations set forth in this Protective Order, the parties shall be allowed to inspect, reproduce, and copy the Jury Records at all reasonable times during the preparation and pendency of a motion under 28 U.S.C. § 1867(a), (b), or (c);

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 1867(f), any person who discloses the Jury Records in violation of 28 U.S.C. § 1867(f) shall be subject to potential penalties as set forth in that provision;

IT IS FURTHER ORDERED that each of the individuals to whom disclosure of the Jury Records is made (including anyone providing legal, investigative, secretarial, technological, clerical, paralegal, or other support services in connection with this criminal action and who is employed by, engaged by, advising or otherwise working at the direction of the parties, as well as any students or interns working for counsel) shall be provided a copy of this Protective Order by counsel; shall be advised by counsel of the terms and conditions and legal ramifications of this Protective Order, including that he or she shall not further disseminate or discuss the Jury Records and must follow the terms of this Protective Order, and that the Court can enforce the Protective Order against the person to whom the Jury Records are disclosed; and shall confirm to counsel that he or she will abide by the terms of the Protective Order;

IT IS FURTHER ORDERED that all Jury Records are to be provided to the defendant, and used by Defense Counsel, solely for the purpose of allowing the defendant to prepare a motion under 28 U.S.C. § 1867, and that none of the Jury Records shall be used in any

manner nor disseminated to any other third party in a manner that is inconsistent with the preceding paragraphs;

IT IS FURTHER ORDERED that, at the conclusion of this case, Defense Counsel shall return to the Jury Administrator all copies of the Jury Records provided in this case, together with any and all copies thereof, or shall take all reasonably practicable steps to destroy such records, together with any and all copies thereof, which destruction Defense Counsel shall verify in writing;

IT IS FURTHER ORDERED that, the provisions of this Protective Order shall not be construed as preventing the disclosure of any information in any motion made under 28 U.S.C. § 1867, provided that redactions are made pursuant to Fed. R. Crim. P. 49.1 and ECF Rules & Instructions prior to any public filing.

AGREED AND CONSENTED TO:

Ariel Werner
Ariel Werner, Esq.
Federal Defenders of New York
Attorney for the defendant

9/3/2020
Date

AUDREY STRAUSS
Acting United States Attorney

By: Andrew Rohrbach
Andrew Rohrbach
Assistant United States Attorney

9/3/2020
Date

SO ORDERED:

Richard M. Berman
HON. RICHARD M. BERMAN
UNITED STATES DISTRICT JUDGE

9/4/2020
Date